

REMARKS

Claims 1-39 were pending prior to this amendment. Claims 1-39 are rejected. Claims 1-5, 8-13, 16, 18, 22, 31-33, and 35-39 have been amended. Claims 14, 15, 21, 25 and 34 have been cancelled. New claims 40-44 have been added. Applicant respectfully requests reconsideration of all pending claims.

Novel and Non-Obvious Subject Matter

Although the July 5, 2006 Office Action applied a 35 U.S.C. § 101 “utility” rejection to claims 1-39, the Office Action did not apply 35 U.S.C. § 102 or 35 U.S.C. § 103 rejections to any of claims 4, 5, 13, 15, 18-21, 25, 26, 34 and 35. Accordingly, Applicant acknowledges the novelty and non-obviousness of the subject matter included in claims 4, 5, 13, 15, 18-21, 25, 26, 34 and 35.

Claim Objections

Claims 3, 9, and 13-15 are objected to because of informalities.

Claims 3, 9, and 13 have been amended according to the Examiner’s suggestion. Claims 14 and 15 have been cancelled.

Drawing Objections

The drawings are objected to on the basis that the same reference character has been used to designate different parts.

The drawings have been amended according to the Examiner’s suggestion.

Claim Rejections - 35 U.S.C. § 101

Claims 22-39 are rejected under 35 U.S.C. § 101 on the basis that the claimed invention is drawn to non-statutory subject matter.

Independent claims 22 and 31 have been amended according to the Examiner’s suggestion. Claims 23-30 and 32-39 are dependent and should be allowed for at least the same reason.

Claims 1-39 are rejected under 35 U.S.C. § 101 on the basis that the claimed invention lacks patentable utility.

Primary Examiner Chu and Attorney Michael Cofield discussed the 35 U.S.C. § 101 rejection during a September 19, 2006 telephone interview. A summary of the telephone interview follows.

Section 101 requires a claim to be directed to one of four enumerated categories: a useful process, a useful machine, a useful manufacture or a useful composition of matter. *See* MPEP 2107. For claims outside of one of the four enumerated categories, the claim must be for a practical application of an abstract idea, law of nature, or natural phenomenon. *See* Interim Guidelines on Patentable Subject Matter, page 19, lines 1-6. Claims 16-21, however, are inside the four enumerated categories because claim 16 is directed to a machine.

Moreover, the machine recited in claim 16 meets the requirements for being useful. For example, claim 16 recites a network processing device that automatically classifies error codes as software caused outages or hardware caused outages. Automatic classification aids an administrator in troubleshooting or debugging errors and is therefore useful. For example, when the network processing device classifies all outages are classified as hardware caused outages, the administrator does not need to spend time searching for problems in the software kernel. The Examiner stated during the telephone interview that Applicant had, at least initially, overcome the 35 U.S.C. § 101 “utility” rejection with respect to claims 16-21. Thus, claims 16-21 should be allowed.

With respect to the other claims, *e.g.*, 1-15 and 22-39, Applicant traversed the rejection for similar reasons as outlined above. Regardless, in the interest of furthering prosecution Applicant agreed to include the Examiner’s suggestion for a limitation directed to storing the classifications in a storage medium. Thus claims 1-15 and 22-39 should be allowed.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 6, 16, 22, 27, 31, and 36 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 20030172153 to Vaver.

Claim 1 has been amended. Applicant claims automatically classifying the software caused outages planned outages, first unplanned outages corresponding to manually initiated resets ... and second unplanned outages corresponding to non-manually initiated resets. Accordingly, unplanned outages caused when an administration reboots a system due to a software cause are distinguished from unplanned outages caused when, for example, software reboots by itself due to a software error. This feature is described in the present specification with respect to FIG. 15.

Vaver does not distinguish different types of unplanned outages. For example, Vaver only discloses that one could prepare a pie chart distinguishing hardware failures and software failures. There is no suggestion for further classification on the pie chart.

In contrast, claim 1 includes classifying error codes as hardware caused or software caused, and then classifying further classifying the software caused outages into planned, first unplanned and second unplanned. Thus, claim 1 should be allowed. Claim 6 is dependant and should also be allowed.

Claim 16 has been amended to include the subject matter of claim 21, which has been indicated as novel and non-obvious. Thus, claim 16 should be allowed. Claim 22 has been amended to include the subject matter of claim 25, which has been indicated as novel and non-obvious. Thus, claim 22 should be allowed. Claim 27 is dependent and should also be allowed. Claim 31 has been amended to include the subject matter of claim 34, which has been indicated as novel and non-obvious. Thus, claim 31 should be allowed. Claim 36 is dependent and should also be allowed.

Claims 10-12 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,594,786 to Connelly et al.

Claim 10 has been amended and should be allowed for at least similar reasons as claim 1. Claims 11 and 12 are dependant and should also be allowed.

Claim Rejections - 35 U.S.C. § 103

Claims 2, 3, 7-9, 17, 23, 24, 28-30, 32, 33, and 37-39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Vaver as applied to claims 1, 16, 22, and 31 above, and further in view of Connelly et al.

Claims 2, 3, 7-9, 17, 23, 24, 28-30, 32, 33, and 37-39 are dependent and should be allowed for at least the same reasons as their respective parent claims.

Claim 18, which includes subject matter indicated as novel and non-obvious, has been put into independent form without any other amendments.

Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Connelly et al. as applied to claim 11 above, and further in view of Vaver.

Claim 14 has been cancelled.

New Claims

New claims 40-44 have been added. Support for the new claims can be found in the present specification, at least on pages 24 and 25.

Telephone Interview

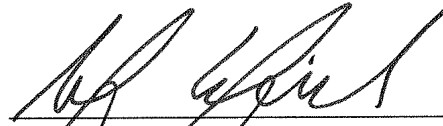
Primary Examiner Chu and Attorney Michael Cofield discussed the 35 U.S.C. § 101 rejection during a September 19, 2006 telephone interview. A summary of the substance of the interview is include above in the section titled "Claim Rejections - 35 U.S.C. § 101." Additionally, Examiner Chu clarified the novel and non-obvious status of claims 4, 5, 13, 15, 18-21, 25, 26, 34 and 35.

CONCLUSION

For the foregoing reasons, reconsideration and allowance of all pending claims of the application as amended is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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